

Stepchildren and wills: Is blood thicker than water?

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WHEN it comes to estate planning, many people assume that their stepchildren will automatically inherit from them in the same way as biological or legally adopted children. However, under Jersey law, stepchildren do not have the same legal rights unless specific steps are taken. If you wish to leave assets to your stepchildren, or not, it is crucial to have a well-drafted will or estate plan.

DO STEPCHILDREN HAVE INHERITANCE RIGHTS?

In most jurisdictions, including Jersey, stepchildren do not have automatic inheritance rights under intestacy laws. Intestacy laws govern what happens to a person's assets if they die without a valid will. Jersey law prioritises biological and adopted children but does not include

stepchildren unless they have been legally adopted.

If a stepparent does not have a valid will that specifically includes their stepchildren, the assets may be divided among the stepparent's children or other relatives according to the intestacy laws, leaving the stepchildren without any inheritance.

BUT WHAT IF A BIOLOGICAL PARENT DIES FIRST AND LEAVES A WILL THAT BEQUEATHS EVERYTHING TO THEIR PARTNER/SPOUSE/CIVIL PARTNER, WHO IS ONLY A



STEPPARENT OF THEIR CHILDREN?

The inheritance rights and distribution will depend on the partner's/surviving spouse's/civil partner's decisions. In such cases, it is up to the partner/surviving spouse/civil partner to honour any agreements made regarding the sharing of assets with the partner's/deceased spouse's/civil partner's biological children. As time passes after the death of their partner/spouse/civil partner, any such agreements may be forgotten and new relationships and marriages entered into.

It can be the case that a biological child's inheritance is then left to their stepparent's new partner/spouse/civil partner or the stepparent's children.

If the inheritance is immovable estate (a property), there is little that can be done about this. If it is movable estate (for example, cash), and there is a will, then the biological child could bring a claim against the estate to receive what they are entitled to under Jersey law. This is called *légitime*, and a surviving spouse/civil partner is entitled to one third of the deceased's movable estate, along with any children of the deceased.

AVOIDING CHALLENGES TO YOUR WILL

To prevent potential legal disputes over your will, consider the following precautions:

- Ensure the will is legally valid. Work with an estate planning lawyer to draft a will that meets all legal requirements.
- Clearly state your intentions. Be explicit in your will about why you are including (or excluding) certain beneficiaries.

- Discuss your plans with family. Having conversations with your partner/spouse/civil partner, stepchildren and other heirs can help prevent surprises and conflicts later.
- Update your will regularly. Life changes, such as marriage, divorce, or the birth of grandchildren, may require updates to your estate plan.

CONCLUSION

If you want your stepchildren to either not inherit or to inherit from you, it is essential to plan ahead. A will is the best way to ensure your wishes are followed and that your stepchildren and your own children receive the inheritance you intend for them. Without proper planning, your assets may pass only to biological or step relatives, leaving those who you intended to inherit without an inheritance.

A properly designed estate plan can protect as far as possible the children of both parties, regardless of which party dies first. One commonly used strategy is to create a property life interest or a trust leaving assets to the partner/surviving spouse/civil partner during their lifetime but then passes the remaining assets to the children or stepchildren.

If you wish to consider how to benefit your own children or stepchildren in preference to your partner/spouse/civil partner, you need to seek legal advice.

At Viberts, our private client team is one of the largest in the Island, and we provide efficient and pragmatic estate planning advice which seeks to navigate such issues.

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